[Cite as *State v. Washington*, 2015-Ohio-2505.]

STATE OF OHIO	)	IN THE COURT OF APPEALS
	)ss:	NINTH JUDICIAL DISTRICT
COUNTY OF SUMMIT	)	

STATE OF OHIO Appellee v. JIMMIE L. WASHINGTON Appellant	C.A. No. 27627 APPEAL FROM JUDGMENT ENTERED IN THE COURT OF COMMON PLEAS COUNTY OF SUMMIT, OHIO CASE No. CR 2009-03-0980 A

DECISION AND JOURNAL ENTRY

Dated: June 24, 2015

SCHAFER, Judge.

{¶1} Defendant-Appellant, Jimmie Washington, appeals the judgment of the Summit County Court of Common Pleas denying his motion to reconsider the trial court's previous denial of several motions. For the reasons that follow, we dismiss the appeal for want of jurisdiction.

I

{¶2} Washington was indicted on one count of aggravated robbery in violation of R.C. 2911.01(A)(1) with a gun specification pursuant to R.C. 2941.14, one count of grand theft in violation of R.C. 2913.02(A)(1), (4), and one count of having weapons under disability in violation of R.C. 2913.12(A)(3). Before trial, the State dismissed the weapons under disability count and the trial court amended the grand theft charge to theft, over Washington's objection. Washington was found guilty on all counts and sentenced to a total prison term of seven years.

{¶3} Washington appealed to this Court and asserted that the trial court erred by allowing the amendment of the grand theft charge and by sentencing him on both the aggravated robbery and theft counts. *State v. Washington*, 9th Dist. Summit No. 24987, 2010-Ohio-3389, ¶ 6, 13 ("*Washington I*"). We affirmed Washington's convictions, but reversed his sentence on the basis that the aggravated robbery and theft convictions should merge as allied offenses of similar import. *Id*. at ¶ 16. This matter was subsequently remanded for resentencing.

{¶4} On remand, the trial court properly merged the aggravated robbery and theft convictions for the purposes of sentencing and resentenced Washington to a seven year prison term. Washington again appealed to this Court. His assigned counsel filed a motion to withdraw and a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967). We granted the motion to withdraw based on our finding that there were no appealable, non-frivolous issues. *State v. Washington*, 9th Dist. Summit No. 25784, 2011-Ohio-6600, ¶ 13-14 ("*Washington II*"). We also overruled the assignment of error raised in Washington's pro se merit brief, which related to his challenge of the verdict form's sufficiency for aggravated robbery, as barred by res judicata. *Id*. at ¶ 12.

{¶5} Washington has filed a number of motions with the trial court since our decision in *Washington II*. He filed a motion to set aside his sentence, a motion to vacate his purportedly void firearm specification conviction, several motions for judicial release, and to reassign the case to a different judge. The trial court summarily denied these motions on the basis of res judicata and failure to comply with R.C. 2953.23 by judgment entry dated October 7, 2014.

{¶6} Subsequently, Washington filed a new motion asking the trial court to rule on the same motions that were previously denied in the October 7, 2014 entry. The trial court found that it had previously disposed of the motions and denied the request to again rule on the motions

pursuant to a judgment entry dated December 2, 2014. Washington filed a notice of appeal with this Court on December 23, 2014 from the December 2, 2014 judgment of the trial court and he has asserted one assignment of error for our review.[1]

II

ASSIGNMENT OF ERROR

> THE TRIAL COURT ERRED IN APPLYING THE RES JUDICATA DOCTRINE.

{¶7} This Court is only vested with appellate jurisdiction to review final and appealable orders. Ohio Constitution, Article IV, Section 3(B)(2). Washington has not appealed from such a final and appealable order. Rather, he has appealed from the trial court's denial of a motion that essentially asked the trial court to reconsider its previous denial of his post-conviction motions. Since the trial court's ruling on Washington's motion to reconsider is a nullity, we lack jurisdiction to consider this appeal.

{¶8} "It is axiomatic that there is no rule that allows a party to move a trial court for reconsideration of a final judgment." *State v. Keith*, 9th Dist. Lorain No. 08CA009362, 2009-Ohio-76, ¶ 8; *see also State v. Leach*, 12th Dist. Clermont No. CA2004-02-011, 2005-Ohio-2370, ¶ 6 ("There is no authority for filing a motion for reconsideration of a final judgment at the trial court level in a criminal case"). In *State v. Harbert*, 9th Dist. Summit No. 20955, 2002-Ohio-6114, we explained the effect that this axiom produces when a criminal defendant appeals from a trial court's denial of a motion to reconsider:

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[1] Washington has filed several "supplemental briefs" with this Court that set forth additional assignments of error. However, by entries dated February 24, 2015 and March 5, 2015, this Court, by magistrate's order, struck all of these supplemental briefs from the record. Accordingly, we are unable to consider the assignments of error that were raised in the supplemental briefs.

> A motion for reconsideration of a final judgment is a nullity which does not suspend the time for filing a notice of appeal, and any order granting such a motion is likewise a nullity. It follows that because a judgment entered on a motion for reconsideration is a nullity, a party cannot appeal from such a judgment. Consequently, this Court has no jurisdiction to hear the appeal.

(Citations omitted.) *Id*. at ¶ 24-25. We have also previously recognized that a defendant's motion still constitutes one to reconsider even if has a different label, so long as it relates to the same issue previously ruled upon by the trial court. *See, e.g.*, *State v. Papczun*, 9th Dist. Summit No. 26560, 2013-Ohio-1162, ¶ 9 ("[I]n his second motion for jail-time credit, Mr. Papczun essentially urged the trial court to reconsider its previous decision denying him additional credit for time spent under house arrest."); *State v. Vanelli*, 9th Dist. Wayne No. 02CA0066, 2003-Ohio-2717, ¶ 7 ("Appellant has appealed from the denial of his second motion for jail time credit and the denial of his second motion to modify his sentence. In essence, Appellant was moving the trial court to reconsider its judgments on Appellant's prior motions as well as the trial court's sentencing entry.").

{¶9} Here, Washington filed a variety of motions that challenged his conviction and sentence. The trial court denied those motions on October 7, 2014. Nevertheless, Washington filed an additional motion asking for another judgment on his previously-filed motions. This second motion related to the same issues previously decided by the trial court and covered no new ground. Consequently, although not labeled as such, Washington's second motion was essentially asking the trial court to reconsider the previous denial of his motions. Under well-settled law, there is no provision for motions to reconsider so the trial court's December 2, 2014 ruling on the second motion was a nullity and it was not a final, appealable order that we can review.

{¶10} Accordingly, we must dismiss this matter for want of jurisdiction. *See State v. Bennett*, 5th Dist. Muskingum No. CT2005-0009, 2006-Ohio-2812, ¶ 13-17 (dismissing appeal from trial court's denial of the defendant's motion to reconsider previous denial of motions for postconviction relief and judicial release); *Leach* at ¶ 7 (dismissing appeal from the trial court's denial of the defendant's motion to reconsider a previous denial of a motion to clarify the record).

III

{¶11} For the foregoing reasons, this appeal is dismissed for want of jurisdiction.

Appeal dismissed.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(C). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellant.

JULIE A. SCHAFER
FOR THE COURT

HENSAL, P. J.
MOORE, J.
CONCUR.

APPEARANCES:

JIMMIE L. WASHINGTON, pro so, Appellant.

SHERRI BEVAN WALSH, Prosecuting Attorney, and HEAVEN DIMARTINO, Assistant Prosecuting Attorney, for Appellee.